



**PERSONNEL APPEALS BOARD**

25 Capitol Street  
Concord, New Hampshire 03301  
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**Appeal of Benjamyn Carver**

**Docket #2020-T-004**

**Department of Corrections**

**New Hampshire Personnel Appeals Board's Decision on Appellee's Motion to  
Dismiss**

January 3, 2020

The Appellee filed its Motion to Dismiss on December 2, 2019, and the Appellant filed his Objection on December 6, 2019. The Appellee argues that the Board does not have jurisdiction to hear the above captioned matter as the Appellant resigned from his position in lieu of termination. The Appellant argues that his separation from his position constitutes a constructive discharge.

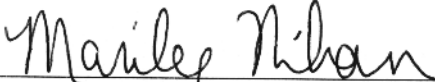
Paula Mattis, Director of Medical and Forensic Services, issued a Pre-Disciplinary letter to the Appellant on August 16, 2019. The letter informs the Appellant that a meeting was scheduled for August 22, 2019, to discuss serious allegations that were made against him. Ms. Mattis provided the Appellant with notice as to what the allegations were and informed him that she was considering serious disciplinary action, up to and including dismissal. The letter also provided that the Appellant would have the opportunity to refute the evidence and present his own evidence in his defense.

On September 17, 2019, the Appellant resigned from State service. The Board disagrees with the Appellant that his separation from service was the result of constructive discharge. Constructive discharge results when an employer makes working conditions so

intolerable that a reasonable employee would feel forced to resign. Furthermore, the adverse working conditions generally must be ongoing, pervasive, and severe to substantiate such a claim. Lacasse v. Spaulding Youth Center, 154 N.H. 246 (2006).

For the foregoing reasons, the Appellee's Motion to Dismiss is GRANTED.

THE PERSONNEL APPEALS BOARD



Commissioner Marilee Nihan

cc: Lorrie Rudis, Director of Personnel,  
Gary Snyder, Esq. E-mail  
Erik Bal, Esq. E-mail